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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,397	02/20/2002	Bernarr C. Schaeffer		6716
7590	03/31/2004		EXAMINER	
Joseph B. Taphorn HAGAN FARMS 8 Scenic Drive Poughkeepsie, NY 12603-5521			FASTOVSKY, LEONID M	
			ART UNIT	PAPER NUMBER
			3742	
			DATE MAILED: 03/31/2004	

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Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/079,397	SCHAEFFER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Leonid M Fastovsky	3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 December 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.  
 4a) Of the above claim(s) 7-25 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6 and 26 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 7-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claims, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.
2. Applicant's election with traverse of claims 7-25 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that the inventions are not distinct. This is not found persuasive because of the reasons stated in paper No. 4.

The requirement is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sung (5,117,481) in view of Perlman (4,998,006).

Sung discloses substantially the claimed invention comprising a compact sauna (Fig. 2) for causing a user to sweat, dual far infrared source heating elements F1 and F2. However Sung does not disclose a low –level of extremely low frequency electromagnetic fields. Perlman discloses heating elements that can be used in heating panels where the device is brought into proximity with the human body. The element is conventionally powered by 60 Hertz, 120 volts alternating current that produced little or no external electromagnetic field and it would have been obvious to combine in order to reduce potential harmful effects of magnetic fields produced by room heating panels (Col. 1, lines 44-55 and Col. 10).

5. Claim 3 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sung in view of Perlman and further in view of Kyowa Denki (JP2003051368).

Sung in view of Perlman teaches substantially the claimed invention, however Sung is silent about the structure of the infrared elements being planar and having protrusions. Denko discloses infrared heaters that are planar and have protrusions 12 (Fig. 4 and 5). It would have been obvious to one having ordinary skill in the art to modify the invention of Sung in view of Perlman to use planar infrared heater with protrusions and projected towards the use for better heating effect, to generate a heat sink and to reduce power consumption as taught by Denko.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sung in view of Perlman and further in view of Grise et al (4,485,297).

Sung in view of Perlman discloses substantially the claimed invention, however they do not disclose that heaters are planar and comprised of a thin substrate bearing a semi-conductor pattern, a pair of longitudinal stripes and a metallic conductor overlaying each stripe. Grise discloses heaters having a plurality of bars 18, a pair of longitudinal stripes 14 interconnected with the bars and a metallic conductor overlaying each stripe. It would have been obvious to one having ordinary skill in the art to modify the invention of Sung and Perlman to include a plurality of bars, a pair of longitudinal strips and a metallic conductor overlaying each stripe in order to replace other thin wire heaters (like Perlman) and to have a high uniformity in heat propagation at reduced cost as taught by Grise (Col. 1, lines 20-25).

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 703-306-5482. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Pothier can be reached on 703-308-0265. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Leonid M Fastovsky  
Examiner  
Art Unit 3742

lmf



DENISE POTHIER  
PRIMARY EXAMINER